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**CHILD SUPPORT PROGRAM  
COMPLIANCE AND SANCTIONS**

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**CHAPTER 12-800 COMPLIANCE AND SANCTIONS**

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**CHAPTER 12-800 COMPLIANCE AND SANCTIONS****12-801 GENERAL****12-801**

- .1 Pursuant to the provisions of Welfare and Institutions Code Section 10605, as described in the handbook material in this chapter, and to the provisions of this chapter, the Director shall have the authority to take specified administrative and/or judicial actions if he/she believes that a county is substantially failing to comply with any provision of the Welfare and Institutions Code or any regulation pertaining to any program administered by the Department, and he/she determines that formal action may be necessary to secure compliance.

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- .2 The compliance proceedings described in this chapter are in addition to the Director's power to bring an action for writ of mandamus or such other judicial action as may insure that there is no interruption in the provision of benefits to any eligible person under the provisions of the Welfare and Institutions Code or the regulations of the Department.

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**12-802 NOTICE OF NONCOMPLIANCE****12-802**

- .1 Upon determination of the necessity for formal action to secure compliance, the Director shall provide notice of the noncompliance to the county.
  - .11 The notice shall conform to the requirements of Welfare and Institutions Code Section 10605.

12-802	NOTICE OF NONCOMPLIANCE (Continued)	12-802
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- .111 The following portion of Welfare and Institutions Code Section 10605 relates to noncompliance notices:

"If the director believes that a county is substantially failing to comply with any provisions of this code or any regulation pertaining to any program administered by the Department, and the director determines that formal action may be necessary to secure compliance, he or she shall inform the county welfare director and the board of supervisors of that failure. The notice to the county welfare director and board of supervisors shall be in writing and shall allow the county a specified period of time, not less than 30 days, to correct its failure to comply with the law or regulations."

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- .12 The notice shall contain the following information in addition to that specified in Section 12-802.11:
- .121 A citation of the statute or regulation with which the Director has determined the county is not in compliance.
- .122 A statement of facts which supports such determination.

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12-803	COUNTY ACTION UPON RECEIPT OF NOTICE OF NONCOMPLIANCE	12-803
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- .1 If, upon receipt of the notice, corrective action regarding the noncompliance has been taken, the county shall provide such evidence as may be requested in writing by the Director in order to establish that it has come into compliance as directed by the notice.
- .11 In making such a request, the Director shall allow the county a reasonable period of time, not less than the remainder of the period specified in the notice of noncompliance, in which to provide such evidence.
- .2 If the county chooses to provide written reasonable assurances that it will be in compliance in accordance with Welfare and Institutions Code Section 10605 it shall meet the requirements specified in Sections 12-803.211 and .221.

<b>12-803</b>	<b>NOTICE OF NONCOMPLIANCE (Continued)</b>	<b>12-803</b>
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- .21 With regard to reasonable assurances, Welfare and Institutions Code Section 10605 states, in pertinent part, that the county may within the specified time for correction, "...provide reasonable assurances in writing that it will comply within the additional time as the director may allow...".

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- .211 Such assurances shall be:
- (A) Signed by the county welfare director.
  - (B) Approved by the county board of supervisors.
- .221 If the county cannot comply within the period specified in the notice, it shall provide the Director with the following information:
- (A) The basis for such inability.
  - (B) The additional time necessary to enable compliance.
- .3 If the county fails to comply with the provisions of Sections 12-803.1 or .2, it shall be subject to the provisions of Section 12-804.

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<b>12-804</b>	<b>ACTION UPON CONTINUED NONCOMPLIANCE BY A COUNTY</b>	<b>12-804</b>
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- .1 If the provisions of Sections 12-803.1 or .2 are not met within the specified time period, the Director shall have the authority to take one or both of the following actions:
- .11 Seek injunctive relief, as specified in Welfare and Institutions Code Section 10605.

<b>12-804</b>	<b>ACTION UPON CONTINUED NONCOMPLIANCE BY A COUNTY</b>	<b>12-804</b>
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- .111 On the subject of injunctive relief, Welfare and Institutions Code Section 10605 states that:

"Any county which is found to be failing in a substantial manner to comply with the law or regulations pertaining to any program administered by the department may be enjoined by any court of competent jurisdiction. The court may make orders or judgments as may be necessary to secure county compliance."

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- .12 Conduct a compliance hearing, in accordance with Welfare and Institutions Code 10605(b).
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- .121 With regard to conduct of compliance hearings, Welfare and Institutions Code Section 10605(b) states, in pertinent part, that the Director may "Order the county to appear at a hearing before the director with the State Social Services Advisory Board Committee on Welfare and Social Services to show cause why the director should not take administrative action to secure compliance. The county hearings shall be conducted pursuant to the rules and regulations of the department."

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<b>12-805</b>	<b>ORDER TO APPEAR</b>	<b>12-805</b>
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- .1 The Order to Appear shall contain information including but not limited to the following:
- .11 The hearing date, which shall be not less than 30 days after the date of the order.
- .12 The hearing location, which shall be in the city in which the principal office of the county welfare department is located, or in such other place as is designated by the Director when necessary for the convenience of the parties or their representatives.

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Regulations	COMPLIANCE AND SANCTIONS	12-806 (Cont.)
<b>12-805</b>	<b>ORDER TO APPEAR</b> (Continued)	<b>12-805</b>
<p>.2 A copy of the order shall be sent to the county board of supervisors.</p> <p>.3 The order shall be published in at least one newspaper of general circulation in the county.</p>		
<b>12-806</b>	<b>REQUESTS TO PARTICIPATE IN THE COMPLIANCE HEARING</b>	<b>12-806</b>
<p>.1 The county and the Department shall be considered to be parties to the hearing and need not make a specific request to participate.</p> <p>.2 The Director shall have the authority to recognize other individuals or groups as parties, if the county noncompliance to be considered has caused them injury and their interest is among those to be protected by the law or regulation in issue.</p> <p>.21 Any individual or group wishing to participate as a party shall file a petition with the Director within ten days after notice of the hearing has been published in accordance with Section 12-805.3, and shall send a copy to the county welfare director and the county board of supervisors.</p> <p>.22 The petition shall concisely state the following:</p> <p>.221 The petitioner's interest in the proceeding.</p> <p>.222 The person who will appear for the petitioner.</p> <p>.223 The issues upon which the petitioner wishes to participate.</p> <p>.224 Whether the petitioner intends to present witnesses.</p> <p>.23 The county shall be permitted to file comments with the Director regarding the petition to participate provided that such comments are submitted within five days of receipt, in accordance with Section 12-806.21, of a copy of the petition.</p> <p>.24 The Director, or the presiding officer, shall promptly determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly.</p> <p>.241 The Director or presiding officer shall give each petitioner written notice of the decision on his or her petition at least ten days prior to the hearing.</p> <p>.242 If the petition is denied, the notice shall briefly state the grounds for denial.</p>		
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12-806 (Cont.)	CHILD SUPPORT PROGRAM COMPLIANCE AND SANCTIONS	Regulations
<b>12-806</b>	<b>REQUESTS TO PARTICIPATE IN THE COMPLIANCE HEARING</b> (Continued)	<b>12-806</b>
.25	Where petitions to participate as parties are made by individuals or groups with common interests, the Director or presiding officer shall have the authority to request all such petitioners to designate a single representative, or to recognize one or more of such petitioners to represent all such petitioners.	
<b>12-807</b>	<b>COMPLIANCE HEARING</b>	<b>12-807</b>
.1	All parties shall have the following rights during conduct of the hearing:	
.11	To appear by counsel or other authorized representative in all hearing procedures.	
.12	To make opening statements at the hearing.	
.13	To present relevant evidence on the issues at the hearing.	
.14	To present witnesses who then shall be available for cross-examination by the other parties.	
.15	To present oral and/or written arguments at the hearing.	
.2	The presiding officer at the hearing shall be the Director or his designee.	
.21	The presiding officer shall have the following duties:	
.211	To conduct a fair and equitable hearing.	
.212	To avoid delay.	
.213	To maintain order.	
.214	To make a record of the proceedings.	
.22	The presiding officer shall have the following powers:	
.221	To settle or simplify the issues in the proceeding, or to consider other matters that may aid in an expeditious disposition of the proceeding.	
.222	To administer oaths and affirmations.	
.223	To regulate the course of the proceeding and conduct of counsel therein.	
.224	To examine witnesses.	
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<b>12-807</b>	<b>COMPLIANCE HEARING (Continued)</b>	<b>12-807</b>
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- .3 The members of the State Social Services Advisory Board Committee on Welfare and Social Services shall have the following rights at any time during the proceeding:
- .31 To request that testimony be presented on any issue in dispute.
  - .32 To request that a party explain or clarify any argument, evidence, or other matter which is relevant to the issues in dispute.
  - .33 To examine witnesses.
- .4 The rules of the Evidence Code shall not apply to hearings held pursuant to this chapter, with the exception that the presiding officer shall have the authority to exclude irrelevant, immaterial, or unduly repetitious evidence, and shall exclude evidence which is privileged under the Evidence Code if the privilege is claimed in accordance with law.
- .41 All documents and other evidence offered for or taken for the record shall be open to examination by the parties.
  - .42 Opportunity shall be given to refute facts and arguments advanced on either side of the issues.
- .5 If the department and the county agree to stipulations of fact, such stipulations shall be made part of the record.
- .6 Oral testimony by witnesses at the hearing shall be given under oath or affirmation.
- .7 The issues considered at the hearing shall be limited to those issues of which the county was notified pursuant to Section 12-802.1, unless both the Department and the county agree to consideration of a new issue.

<b>12-808</b>	<b>DIRECTOR'S FINDINGS AND DECISION, AND SANCTIONS</b>	<b>12-808</b>
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- .1 No later than 30 days following the hearing, the Director shall render in writing his/her findings and decision on the county noncompliance issues.

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**12-808 DIRECTOR'S FINDINGS AND DECISION, AND SANCTIONS (Continued) 12-808**

- .2 The Director's written decision shall contain information including but not limited to the following:
- .21 Whether the county has been found to be in compliance, or to be in noncompliance as cited.
- .22 If the county has been found in noncompliance, whether a sanction is to be invoked, and relevant information regarding the sanction.
- .221 If the Director finds that the original citation of noncompliance is valid, he/she shall have the authority to decide that one of the sanctions specified in Welfare and Institutions Code Section 10605 shall be invoked.

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- (a) Regarding sanctions, Welfare and Institutions Code Section 10605 states, in pertinent part:

"If the director determines, based on the record established at the hearing and the advice of the State Social Services Advisory Board Committee on Welfare and Social Services, that the county is failing to comply with the provisions of this code or the regulations of the department, ...the director may invoke either of the following sanctions:

"(1) Withhold all or part of state and federal funds from the county until the county demonstrates to the director that it has complied.

"(2) Assume, temporarily, direct responsibility for the administration of all or part of any or all programs administered by the department in the county until the time as the county provides reasonable assurances to the director of its intention and ability to comply. During the period of direct state administrative responsibility, the director or his or her authorized representative shall have all of the powers and responsibilities of the county director, except that he or she shall not be subject to the authority of the board of supervisors."

- (b) It should be further noted that this section requires the county to provide sufficient funds for the continued operation of all programs administered by the Department.

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12-808	DIRECTOR'S FINDINGS AND DECISION, AND SANCTIONS (Continued)	12-808
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- .23 Reference to the county's right to judicial review of the Director's decision, as specified in Welfare and Institutions Code Section 10605 shall be invoked.

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- .231 This code section allows the county to seek judicial review of the Director's decision under Code of Civil Procedure Section 1094.5. This method of review is the exclusive remedy available to review the Director's decision.

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- .3 Copies of the decision shall be sent to the following:
- .31 The county welfare director.
  - .32 The county board of supervisors.
  - .33 Other parties to the hearing, if any.